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6 **UNITED STATES DISTRICT COURT**  
7 **FOR THE WESTERN DISTRICT OF WASHINGTON**  
8 **AT SEATTLE**

9  
10 VALVE CORPORATION,  
11 Plaintiff,  
12 v.  
13 LEIGH ROTHSCHILD, ROTHSCHILD  
14 BROADCAST DISTRIBUTION SYSTEMS,  
15 LLC, DISPLAY TECHNOLOGIES, LLC,  
PATENT ASSET MANAGEMENT, LLC,  
MEYLER LEGAL, PLLC, AND SAMUEL  
MEYLER,  
16 Defendants.  
17

Case No. 2:23-cv-1016-JNW

**PLAINTIFF VALVE CORPORATION'S  
MOTION FOR JUDGMENT ON THE  
PLEADINGS**

NOTE ON MOTION CALENDAR:  
**June 13, 2025**

Complaint Filed: 07/07/2023

ORAL ARGUMENT REQUESTED<sup>1</sup>

27 <sup>1</sup> Pursuant to Section 5.1 of this Court's Chamber Procedures – Civil, Valve intends to have an  
28 attorney with less than six years of experience argue this motion should the Court grant oral  
argument.

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1       **I. INTRODUCTION**

2           Valve Corporation respectfully moves for judgment on the pleadings in its favor on  
 3           (1) RBDS's only Counterclaim of infringement of the '221 Patent (Dkt. 80, ¶¶ 1–21) and  
 4           (2) Valve's Fourth Affirmative Defense (Licensing and/or Authorization) (Dkt. 85, ¶¶ 4–17). *See*  
 5           FED. R. CIV. P. 12(c); LCR 7(b)(1), 7(d)(3).

6           Among other claims, Valve brought a declaratory judgment that U.S. Patent No. (the "221  
 7           Patent") is unenforceable because it is subject to a license between Valve and Defendants.<sup>2</sup>  
 8           Defendants agreed that Valve has a valid and enforceable license to the '221 Patent and covenant  
 9           not to sue. But inexplicably, Defendant RBDS also asserts a counterclaim that Valve infringes the  
 10           '221 Patent. RBDS does so without ever arguing that Valve's license to the same patent is invalid  
 11           or unenforceable. Because all parties admit in the pleadings that Valve is licensed to and protected  
 12           against suit over the '221 Patent, Valve respectfully requests this Court grant its motion for  
 13           judgment on the pleadings on and RBDS's only Counterclaim (Dkt. 80, ¶¶ 1–21) and Valve's  
 14           Fourth Affirmative Defense (Licensing and/or Authorization) (Dkt. 85, ¶¶ 4–17).

15       **II. BACKGROUND**

16       **A. Undisputed Factual Allegations in the Second Amended Complaint**

17           Valve alleges it entered into a Global Settlement and License Agreement (the "GSLA")  
 18           with Display Tech. and Rothschild on November 14, 2016. Dkt. 38, ¶¶ 12–13; Dkt. 80, Answers to  
 19           ¶¶ 12–13 (admitting the same). The GSLA grants Valve a "perpetual, irrevocable, royalty-free,  
 20           fully paid-up, worldwide license" to all patents listed in Exhibit C of the settlement agreement."  
 21           Dkt. 38, ¶ 12; Dkt. 38-1 at 5–6; Dkt. 80, Answer to ¶ 12 ("Admitted"). Exhibit C to the GSLA  
 22           expressly lists the '221 Patent. Dkt. 38, ¶ 28; Dkt. 38-1 at 19; Dkt. 80, Answer to ¶ 28  
 23           ("Defendants admit that the '221 Patent is listed on Exhibit C of the [GSLA]."). Thus, "Valve  
 24           received a 'perpetual, irrevocable, royalty-free, fully paid-up, worldwide license' to the '221  
 25           Patent by signing the 2016 Global Settlement and License Agreement." Dkt. 38, ¶ 60; Dkt. 80,  
 26           Answer to ¶ 60 ("Defendants admit that the [GSLA] included the grant of a perpetual, irrevocable,

27           <sup>2</sup> For purposes of this motion, "Defendants" encompasses Leigh Rothschild ("Rothschild"),  
 28           Rothschild Broadcast Distribution Systems, LLC ("RBDS"), and Display Technologies, LLC  
 ("Display Tech.").

1 royalty-free, fully paid-up, worldwide license to the ‘221 Patent.’). Valve paid the required  
 2 consideration to the Rothschild licensors to obtain the rights under the GSLA. Dkt. 38, ¶ 12; Dkt.  
 3 80, Answer to ¶ 12 (“Admitted”).

4 Section 2.1 of the GSLA provides a covenant not to sue on the patents in Exhibit C for all  
 5 past and future activity. Dkt. 38-1 (“Licensor irrevocably releases, acquits and forever discharges  
 6 Licensee … from any and all past, present, or future claims or liabilities … arising out of or  
 7 relating in any way to acts of Licensee or its Affiliates in connection with: … (ii) the Licensed  
 8 Patents solely with respect to the Licensed Products…”). Section 1.5 defines “Licensed Patents”  
 9 as “the patents identified in Exhibit C….” *Id.* at 2. Section 1.7 defines “Licensed Products” as “all  
 10 past, present and future machines, manufactures, compositions of matter, methods, processes,  
 11 apparatuses, devices, hardware, software, applications, data, products, web sites, systems and  
 12 other products and services, or any combination of one or more of the foregoing, ever Exploited  
 13 by or on behalf of Licensee, which in the absence of this Agreement would infringe at least one of  
 14 the claims of the Licensed Patents.” *Id.*, at 3.

15 Defendant Rothschild “signed the 2016 Global Settlement and License Agreement on  
 16 behalf of himself, Display Technologies, and all entities listed as ‘Assignee’ in Exhibit C to the  
 17 agreement.” Dkt. 38, ¶ 13; Dkt. 80, Answer to ¶ 13 (“Admitted.”), Dkt. 38-1 at 14, 18–19. Indeed,  
 18 Section 9.2 of the GSLA “represents and warrants that as of the Effective Date (a) Licensor is the  
 19 sole owner of the entire right, title and interest in and to the Licensed Patents, including all rights  
 20 to enforce and sue for past damages, as reflected by the ‘Assignee’ entities listed in Exhibit C; and  
 21 (b) Licensor has the right and authority to grant the rights, licenses and releases hereunder on  
 22 behalf of the entities listed in Exhibit C.” Dkt. 38-1 at 9.<sup>3</sup>

23 “Section 7.2 of the agreement states that ‘Licensor may not assign … any of the Licensed  
 24 Patents without such assignee … agreeing to be bound by the obligations of the Licensor  
 25 hereunder as if it were a party hereto, and any assignment or exclusive license made in violation of  
 26 this provision shall be void.’” Dkt. 38, ¶ 61; Dkt. 80, Answer to ¶ 61 (admitting the GSLA  
 27 “includes the quoted language”); Dkt. 38-1 at 7.

28 <sup>3</sup> “Licensor” is defined as Display Tech. and Rothschild. Dkt. 38-1 at 1.

**B. Additional Undisputed Factual Allegations in Defendants' Answer**

On May 8, 2025, Defendants filed their Second Amended Answer and Counterclaims to Valve’s Second Amended Complaint. Dkt. 80. Defendant RBDS filed a single Counterclaim. Dkt. 80, Counterclaim ¶¶ 1–21. Numerous times throughout their Answer, Defendants admitted that “Valve has a valid and enforceable covenant not to sue for the ‘221 Patent from Defendants.” *Id.*, Answer to ¶¶ 32–34, 49–50. Defendants admitted that “Valve paid to obtain these rights.” *Id.*, Answer to ¶ 12.

Defendants admitted that the GSLA included the language in Section 7.2 that prohibited Lessor from assigning the licensed patents in Exhibit C without the assignee “agreeing to be bound by the obligations of the Lessor hereunder as if it were a party hereto.” *Id.*, Answer to ¶ 61.

Defendants do not assert any affirmative defense that the GSLA is void or that Valve breached the GSLA. *See Id.*, Answer ¶¶ 91–95.<sup>4</sup>

### C. Factual Allegations in the Single RBDS Counterclaim Taken as True

In support of its counterclaim that Valve allegedly infringes the '221 Patent, . RBDS alleged that it is the owner by assignment of the '221 Patent. Dkt. 80, Counterclaim ¶ 8. RBDS alleged that Valve “has infringed and continues to infringe” the '221 Patent by making, using, selling and/or offering for sale in, and/or importing into, the United States, without authorization, products which provide a method storing media content and delivering requested media content to a consumer device, such as Steam Cloud.” *Id.*, Counterclaim ¶ 15.<sup>5</sup> RBDS also accused Valve of indirectly infringing the '221 Patent by inducing direct infringement by its customers. *Id.*, Counterclaim ¶ 18. RBDS included a claim chart asserting claim 7 of the '211 Patent again Valve’s Steam Cloud. *Id.*, Counterclaim ¶ 17. While Valve denies any infringement, for purposes

<sup>4</sup> Defendant Display Tech. previously asserted that it did not breach the GSLA but that Valve did. Dkt. 63, Answer to ¶ 76; Counterclaim ¶¶ 15–20. After the Court granted Valve’s Motion to Strike, Display Tech. now admits to breach of the GSLA and withdrew all allegations that Valve breached the GSLA. Dkt. 80, Answer to ¶ 76.

<sup>5</sup> The only asserted claim 7 is a method claim and can only be infringed by using the method. *Brumfield. v. IBG LLC*, 97 F.4th 854, 879 (Fed. Cir. 2024) (“[A] method claim is directly infringed only by one practicing the patented method.” (quotation omitted)).

1 of this motion, Valve takes these allegations to be true.

2 **D. Factual Allegations in Valve's Answer to RBDS's Counterclaim Taken as**  
 3 **True**

4 On May 20, 2025, Valve filed its Answer to RBDS's Counterclaim. Dkt. 85. Pleadings are  
 5 now closed. In its Answer, Valve asserts as its Fourth Defense "Licensing and/or Authorization."  
 6 Dkt. 85, Valve's Defenses ¶¶ 4–17. There, Valve again explained that the GSLA provided a  
 7 "perpetual, irrevocable, royalty-free, fully paid-up, worldwide license" to the '221 Patent. *Id.*,  
 8 Valve's Defenses ¶¶ 6–7. Valve also explained that even Defendants admit Valve has a license to  
 9 the '221 Patent and has a "valid and enforceable covenant not to sue for the '221 patent from  
 10 Defendants." *Id.*, Valves Defenses ¶¶ 8–9. Because the covenant not to sue extended to past and  
 11 future acts, Valve was released from claims of infringement dating before and after the GSLA, and  
 12 thus had authority from Defendants to perform the accused acts. *Id.*, Valve's Defenses ¶¶ 13–15.  
 13 Valve again explained in its Answer that it paid the agreed to consideration under Section 5.1 in  
 14 exchange for the license. *Id.*, Valve's Defenses ¶ 7.

15 Valve explained that because RBDS alleged Steam Cloud infringed the '221 Patent, if  
 16 taken as true, Steam Cloud fell within the category Licensed Products under the GSLA. *Id.*,  
 17 Valve's Defenses ¶ 10 ("Assuming the truth of RBDS's infringement allegations (which Valve  
 18 denies as stated herein), Steam Cloud is within the definition of 'Licensed Products' because 'in  
 19 absence of this Agreement [it] would infringe[] at least one of the claims of the Licensed Patents.'  
 20 Dkt. 38-1, ¶ 1.7."). "Thus, the GSLA acts as a complete defense to RBDS's Counterclaim of  
 21 infringement of the '221 patent against Valve." *Id.*, Valve's Defenses ¶ 16.

22 **III. LEGAL FRAMEWORK**

23 **A. Motions to Dismiss Under Federal Rule of Civil Procedure 12(c)**

24 "After the pleadings are closed—but early enough not to delay trial—a party may move for  
 25 judgment on the pleadings." FED. R. CIV. PRO. 12(c). "Analysis under Rule 12(c) is substantially  
 26 identical to analysis under Rule 12(b)(6)." *Chavez v. United States*, 683 F.3d 1102, 1108 (9th Cir.  
 27 2012) (cleaned up). Specifically, under Rule 12(c), "a court must determine whether the facts  
 28 alleged in the complaint, taken as true, entitle the plaintiff to a legal remedy." *Id.* (internal

1 quotation marks and citation omitted). A motion under Rule 12(c) may be granted if there is “the  
 2 lack of a cognizable legal theory or the absence of sufficient facts alleged under a cognizable legal  
 3 theory.” *Balistreri v. Pacifica Police Dep’t*, 901 F.2d 696, 699 (9th Cir. 1990).

4 “Therefore, unlike with motions for summary judgment where the entire evidentiary record  
 5 is considered, when reviewing motions for judgment on the pleadings, the Court considers only  
 6 (1) the pleadings, (2) documents incorporated by reference into the complaint, and (3) matters of  
 7 judicial notice.” *Bradley v. Presteen*, No. 2:20-CV-00767-LK, 2025 WL 1355236, at \*4 (W.D.  
 8 Wash. May 9, 2025) (citing *United States v. Ritchie*, 342 F.3d 903, 908 (9th Cir. 2003)). The court  
 9 “accept[s] all factual allegations in the [relevant pleading] as true and construe[s] them in the light  
 10 most favorable to the non-moving party.” *Fleming v. Pickard*, 581 F.3d 922, 925 (9th Cir. 2009).  
 11 However, the court is not required to “accept as true allegations that are merely conclusory,  
 12 unwarranted deductions of fact, or unreasonable inferences.” *Secs. And Exchange Comm’n v.  
 13 Payward, Inc.*, 763 F. Supp. 3d 901, 907 (N.D. Cal. 2025).

14 **B. A License Is a Complete Defense to Patent Infringement**

15 Where a contract provides an express grant of a license to a patent, that express license  
 16 provides a complete defense to infringement claims. *Intel Corp. v. VIA Techs., Inc.*, 319 F.3d  
 17 1357, 1363–64 (Fed. Cir. 2003). When a patent is assigned, the assignee steps into the shoes of the  
 18 assignor, including with respect to any contractual obligation to license or covenant not to sue  
 19 regarding a patent. *Datatreasury Corp. v. Wells Fargo & Co.*, 522 F.3d 1368, 1372 (Fed. Cir.  
 20 2008) (noting that an assignee “takes a patent subject to the legal encumbrances thereon”);  
 21 *Innovus Prime, LLC v. Panasonic Corp.*, No. C-12-00660, 2013 WL 3354390, at \*5, \*8 (N.D.  
 22 Cal. July 2, 2013) (holding that both a license and a covenant not to sue run to the patent  
 23 assignee).

24 **IV. ARGUMENT**

25 There is no factual dispute that the GSLA grants Valve a license to, and covenant not to  
 26 sue for, the ’221 Patent. Resolving the allegations in RBDS’s Counterclaim in its favor, the Steam  
 27 Cloud practices the ’221 Patent and thus falls within the scope of Licensed Products in the GSLA.  
 28 Moreover, RBDS presents no facts that could support its bare allegation Valve’s use of Steam

1 Cloud is “without authority.” Accordingly, Valve’s use of the Steam Cloud service is with  
 2 authority granted under the GSLA, Valve is entitled to judgment on the pleadings as to its  
 3 “License and/or Authorization” defense, and Valve is entitled to judgment on the pleadings against  
 4 RBDS’s infringement Counterclaim.

5 **A. The pleadings present no factual dispute that Valve has a license to the ’221  
 6 Patent and a valid and enforceable covenant not to sue.**

7 Both parties agree—Valve has the authority to practice the claims of the ’221 Patent.

8       1. Valve has a license to the ’221 Patent.

9 It is undisputed that Valve executed the GSLA in November 2016 with Defendants  
 10 Display Tech. and Rothschild. Dkt. 38, ¶¶ 12–13. Dkt. 80, Answers to ¶¶ 12–13 (admitting the  
 11 same). It is undisputed that the GSLA grants Valve a license to practice the patents listed in its  
 12 Exhibit C; the ’221 Patent is listed in Exhibit C; Valve paid to licenses that patent. *See generally*  
 13 *supra* § II.A. In other words, the parties entered into a valid and enforceable contract under Texas  
 14 law. *Fed. Sign v. Texas S. Univ.*, 951 S.W.2d 401, 408 (Tex. 1997); *see also* Dkt. 38-1 at 11  
 15 (Section 11.1 states the law of Texas governs the validity of the GSLA).

16 Defendants admit that Valve has a license to the ’221 Patent. Specifically, Defendants  
 17 “admit that the ’221 Patent is listed on Exhibit C of the [GSLA].” Dkt. 80, Answer to ¶ 28.  
 18 Defendants additionally admit that the GSLA “included the grant of a perpetual, irrevocable,  
 19 royalty-free, fully paid-up, worldwide license to the ’221 Patent.” *Id.*, Answer to ¶ 60; *see also id.*,  
 20 Counterclaim ¶¶ 12–13 (admitting that the GSLA defined “Licensed Patents” to include the ’221  
 21 Patent). And Defendants admit that “Valve paid to obtain these rights.” *Id.*, Answer to ¶ 12. Even  
 22 in their affirmative defenses, Defendants continued to agree Valve has a license to the ’221 Patent.  
 23 *See*, Dkt 80, ¶¶ 93, 95 (“In response, Mr. Schenck indicated a desire to avoid litigation, but  
 24 omitted the fact that Valve already had a license for the ’221 Patent, which alone would have  
 25 resolved any claim or dispute with respect to the ’221 Patent.”).

26 Defendants’ admissions in its Answer and Counterclaims are “judicial admission[s].” *Am.*  
 27 *Title Ins. Co. v. Lacelaw Corp.*, 861 F.2d 224, 226 (9th Cir. 1988) (“Judicial admissions are  
 28 formal admissions in the pleadings which have the effect of withdrawing a fact from issue and

1 dispensing wholly with the need for proof of the fact.” (citation omitted)). Thus, taking the facts  
 2 alleged in the pleadings—including Defendants’ answers and RBDS’s Counterclaim—as true,  
 3 Valve is licensed to the ’221 Patent and has the authority to make, use, sell, offer for sale, and  
 4 import the technology claimed therein. *Intel Corp.*, 319 F.3d at 1363–64. Valve therefore has a  
 5 complete defense to RBDS’s allegations of infringement. *Id.*; Dkt. 38-1 at 3.

6           2.       Valve has a valid and enforceable covenant not to sue for the ’221 Patent.

7           Taking the allegations in Defendants’ Answer as true, Valve also has a valid and  
 8 enforceable covenant not to sue for the ’221 Patent. Defendants admit five different times that  
 9 “Valve has a valid and enforceable covenant not to sue for the ’221 Patent from Defendants.” Dkt.  
 10 80, Answer to ¶¶ 32–34, 49–50. Defendants’ admissions in their Answer show that this covenant  
 11 not to sue applies to *all* “Defendants”—including the current owner of the ’221 Patent, RBDS. *Id.*;  
 12 *Am. Title Ins. Co.*, 861 F.2d at 226 (statements in Answers are “conclusively binding on the party  
 13 who made them”).

14           In addition to the license grant in the GSLA, the GSLA also contains a release of all future  
 15 and past claims arising out of its activities in connection with the Licensed Patents—including the  
 16 ’221 Patent—and the “Licensed Products” in Section 2.1.

17           Subject to the payment provided under Section 5.1, *Licensor irrevocably*  
 18 *releases, acquits and forever discharges Licensee, ... from any and all past,*  
 19 *present, or future claims or liabilities of any kind and nature, at law, in equity, or*  
 20 *otherwise, known or unknown, suspected or unsuspected, disclosed or*  
 21 *undisclosed, arising out of or relating in any way to acts of Licensee or its*  
 22 *Affiliates in connection with: (i) the claims and counterclaims asserted in the*  
 23 *Pending Litigation; (ii) the Licensed Patents solely with respect to the Licensed*  
 24 *Products.*

25           Dkt. 38-1 at 3 (emphasis added).

26           Section 2.2 of the GSLA extends this covenant not to sue to Valve’s customers (the alleged  
 27 direct infringers in RBDS’s allegations of induced infringement):

28           Subject to the payment provided under Section 5.1, *Licensor irrevocably releases,*  
 29 *acquits and forever discharges all vendors, suppliers, manufacturers, developers,*  
 30 *depositors, distributors, contractors, partners, hosts, direct and indirect customers,*  
 31 *and end-users of Licensee or the Licensed Product ... from any and all past,*  
 32 *present, or future claims or liabilities of any kind and nature, at law, in equity, or*

1 otherwise, known and unknown, suspected and unsuspected, disclosed and  
 2 undisclosed, arising out of or relating in any way to acts of a Licensee Third Party  
 3 or the Licensee Third Parties *in connection with the Licensed Patents solely with*  
*respect to the Licensed Products.*

4 Dkt. 38-1 at 3 (emphasis added).

5 All parties admitted in the pleadings that Valve paid the required fee under Section 5.1 of  
 6 the GSLA. *See* Dkt. 38, ¶ 12; Dkt. 80, Answer to ¶ 12. That makes the covenant not to sue a valid  
 7 and enforceable agreement. *Fed. Sign*, 951 S.W.2d at 408.

8 Accordingly, both parties' admit in their pleadings that "Valve has a valid and enforceable  
 9 covenant not to sue for the '221 Patent from Defendants"—including RBDS. Dkt. 80, Answer to  
 10 ¶¶ 32–34, 49–50; Dkt. 85, Valve's Defenses ¶¶ 8–9, 13–15. "A covenant not to sue is equivalent  
 11 to a nonexclusive or 'bare' license." *Molon Motor and Coil Corp. v. Nidec Motor Corp.*, 946 F.3d  
 12 1354, 1360 (Fed. Cir. 2020). The covenant not to sue extends to acts occurring both before and  
 13 after execution of the GSLA. Dkt. 85, Valve's Defenses ¶¶ 13–15; Dkt. 38-1 at 3 (Sections 2.1 and  
 14 2.2). Accordingly, the GSLA provides Valve authority to make, use, sell, offer for sale, and import  
 15 the technology claimed by the '221 Patent via a valid and enforceable license from all Defendants  
 16 regarding the "Licensed Products." Similarly, the GSLA releases Valve from any liability from  
 17 any uses of the "Licensed Products" by Valve's end users.

18 **B. The pleadings present no reasonable dispute that RBDS is bound to the '221  
 19 Patent license and covenant not to sue.**

20 RBDS is bound to the terms of the GSLA, including the grant of rights under a license and  
 21 covenant not to sue over the '221 Patent, due to its admissions in its Answer and Counterclaims  
 22 and under both the agreement and Federal patent law.

23 As discussed above, all Defendants admit "Valve has a valid and enforceable covenant not  
 24 to sue for the '221 Patent from Defendants"—including from RBDS. Because admission in a  
 25 pleading are "conclusively binding on the party who made them," RBDS is bound by its  
 26 admission that it gave Valve a valid and enforceable covenant not to sue for the '221 Patent. *Am.  
 27 Title Ins. Co.*, 861 F.2d at 226.

28 Even if the GSLA did not explicitly bind RBDS to its terms, patent law binds assignees to

1 the encumbrances of the '221 Patent. *Datatreasury Corp*, 522 F.3d at 1372 (noting that an  
 2 assignee “takes a patent subject to the legal encumbrances thereon”); *Innovus Prime, LLC*, 2013  
 3 WL 3354390, at \*5, \*8 (holding that both a license and a covenant not to sue runs to the patent  
 4 assignee). As the assignee of the '221 Patent, RBDS stepped into the shoes of the assignor and  
 5 took ownership of the patent subject to Valve’s license and covenant not to sue under the GSLA.

6 The Court should disregard Defendants’ unsupported (and factually contradicted) denial  
 7 that RBDS is *not* bound to the GSLA’s license and covenant not to sue. *Secs. and Exchange*  
 8 *Comm’n*, 763 F. Supp. 3d at 907 (holding unwarranted inferences are insufficient to defeat a Rule  
 9 12(c) motion). In their response to Valve’s allegation that the GSLA “applies with equal force to  
 10 RBDS” as it did to the '221 Patent owner listed in Exhibit C (Dkt. 38, ¶ 61), Defendants’ answer  
 11 that they agree the GSLA contained the Section 7.2 language, “but otherwise deny the allegations  
 12 of Paragraph 61.” Dkt. 80, Answer to ¶ 61. But Defendants provide no factual allegations that  
 13 could support their conclusion that RBDS is not bound to the obligations of the GSLA under its  
 14 terms or under Federal Circuit law. Accordingly, Defendants cannot support an inference that  
 15 RBDS is free from the '221 Patent license and covenant not to sue obligations. *Secs. and*  
 16 *Exchange Comm’n*, 763 F. Supp. 3d at 907.

17 Construing the facts in favor of RBDS and drawing all **warranted** inferences in its favor,  
 18 RBDS is the owner of the '221 Patent by assignment, and owns the '221 Patent subject to the  
 19 GSLA license and covenant not to sue encumbrances.

20 **C. Valve’s Steam Cloud falls within the scope of the '221 Patent license and  
 21 covenant not to sue.**

22 Resolving the factual allegations in favor of Counterclaimant RBDS, Steam Cloud is a  
 23 Licensed Product under the GSLA, and RBDS cannot show its use is “without authority.” *See* 35  
 24 U.S.C. § 271(a) (“whoever without authority”). Valve’s Steam Cloud service is a “Licensed  
 25 Product” under the GSLA. The GSLA defines “Licensed Product” as “all past, present and future  
 26 ... products, web sites, systems and other products and services, or any combination of one or  
 27 more of the foregoing, ever Exploited by or on behalf of Licensee, which in the absence of this  
 28 Agreement would infringe at least one of the claims of the Licensed Patents.” Dkt. 38-1 at 3. The

1       GSLA defines “Exploit” as—among other things—to “make, … use, sell, offer to sell.” *Id.*, at 2.  
 2       Both parties allege and admit that the ’221 Patent is listed in Exhibit C as a “Licensed Patent.”  
 3       Dkt. 38, ¶¶ 12, 28; Dkt. 80, Answer to ¶¶ 12, 28. RBDS filed its Counterclaim alleging that  
 4       Valve’s own use, and its customers’ use, of the Steam Cloud infringed claim 7 of the ’221 Patent.  
 5       Dkt. 80, Counterclaim ¶¶ 1–21. Assuming the facts in RBDS’s Counterclaim to be correct,  
 6       Valve’s Steam Cloud product “would infringe at least one of the claims of the Licensed Patents.”  
 7       See Dkt. 38-1 at 2 (defining “Licensed Products”). Thus, Valve’s Steam Cloud is a “Licensed  
 8       Product” under the GSLA and subject to the protections of the ’221 Patent license and covenant  
 9       not to sue.

10       Defendants have pled no facts that could support an inference that Steam Cloud is *not*  
 11       within the authorization of the ’221 Patent license and covenant not to sue. First, RBDS’s  
 12       allegation that the use of Steam Cloud is “without authorization” is nothing more than the  
 13       recitation of the infringement standard set forth under Section 271 of the Patent Act. *Secs. and*  
 14       *Exchange Comm’n*, 763 F. Supp. 3d at 907. *Compare* 35 U.S.C. § 271(a) (“[W]hoever without  
 15       authority makes, uses, offers to sell, or sells any patented invention, … , infringes the patent.”),  
 16       with Dkt. 80, RBDS Counterclaim ¶ 15 (“Valve has infringed and continues to infringe the ’221  
 17       Patent under the provisions of 35 U.S.C. § 271(a) by making, using, selling and/or offering for  
 18       sale in, and/or importing into, the United States, without authorization, products … such as Steam  
 19       Cloud.”). Second, RBDS pleads no additional facts that could support an inference that Steam  
 20       Cloud—a “Licensed Product”—is not subject to the authorizations of the GSLA. Accordingly, the  
 21       Court can, and should, disregard RBDS’s allegation that Valve’s use of “Steam Cloud” is “without  
 22       authorization.” *See, e.g., Secs. and Exchange Comm’n*, 763 F. Supp. 3d at 907.

23       Because the pleadings—taken in the light most favorable to Defendants, including  
 24       RBDS—show the Steam Cloud is licensed and subject to a covenant not to sue, the Court should  
 25       grant Valve’s motion for judgment on the pleadings as to Valve’s License and/or Authorization,  
 26       Fourth Affirmative Defense. *Intel Corp.*, 319 F.3d at 1363–64 (express licenses create a complete  
 27       defense to infringement); *FireBlok IP Holdings, LLC v. Hilti, Inc.*, 855 F. App’x 735, 738 (Fed.  
 28       Cir. 2021) (affirming summary judgment of noninfringement for licensed products). Moreover,

1 because Valve is authorized to use the Steam Cloud under the '221 Patent, RBDS cannot support  
 2 an inference that Valve's acts are "without authorization," and the Court should grant judgment on  
 3 the pleadings in favor of Valve on RBDS's Counterclaim. *General Mills, Inc. v. Krant Foods*  
 4 *Global, Inc.*, 487 F.3d 1368, 1371, 1376 (Fed. Cir. 2007) (affirming a Rule 12(b)(6) dismissal of  
 5 infringement claim where the complaint attached a settlement agreement showing the accused  
 6 infringer held a valid covenant not to sue); *CoreBrace LLC v. Star Seismic LLC*, 566 F.3d 1069,  
 7 1072 (Fed. Cir. 2009) (affirming 12(b)(6) dismissal of an infringement claim where the accused  
 8 infringer had an express license to "make, use, and sell" an invention).

9 **V. CONCLUSION**

10 The Court should grant judgement in Valve's favor on its Fourth Affirmative Defense  
 11 (Licensing and/or Authorization) (Dkt. 85, ¶¶ 4–17) and RBDS's Counterclaim (Dkt. 80, ¶¶ 1–21).

12  
 13 DATED: May 23, 2025

Respectfully submitted,

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 in compliance with the Local Civil Rules.